

MAY 18 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

MILTON PAUL HOLLAND, III,

Plaintiff - Appellant,

v.

CITY OF ONTARIO; et al.,

Defendants - Appellees.

No. 03-56833

D.C. No. CV-02-00329-VAP

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Virginia A. Phillips, District Judge, Presiding

Submitted May 15, 2006**

Before: B. FLETCHER, TROTT, and CALLAHAN, Circuit Judges.

Milton Paul Holland, III, appeals pro se from the district court's summary judgment in favor of defendants in his 42 U.S.C. § 1983 action alleging various constitutional violations and state law claims in connection with the 1999 search

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

of his property, and his subsequent arrest. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Beene v. Terhune*, 380 F.3d 1149, 1150 (9th Cir. 2004), and we affirm.

Because Holland makes no argument on appeal challenging the district court's grant of summary judgment for defendants on the merits of his claims, he has waived the right to challenge that portion of the September 9, 2003, order. *See Indep. Towers of Washington v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003).

The district court did not abuse its discretion in deeming Holland's admissions as "conclusively established," because he did not respond to defendants' request for admissions, and did not file a motion to withdraw or amend the admissions pursuant to Federal Rule of Civil Procedure 36(b). *See 999 Corp. v. C.I.T. Corp*, 776 F.2d 866, 869 (9th Cir. 1985).

The district court did not abuse its discretion in denying Holland's ex parte applications for relief from admissions because his applications were untimely and he failed to explain why he could not bring a properly noticed motion. *See Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (reviewing for abuse of discretion a district court's application of its local rules).

We decline to address contentions in Holland's opening brief raised for the first time on appeal. *See Pfingston v. Ronan Eng'g Co.*, 284 F.3d 999, 1003-04 (9th Cir. 2002).

Holland's remaining contentions lack merit.

AFFIRMED.